

# **EXHIBIT E**

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF CALIFORNIA

3 SAN FRANCISCO DIVISION

4

5 MONITA SHARMA and ERIC ANDERSON  
6 on behalf of themselves and all  
others similarly situated,

7 Plaintiffs,

8 vs.

Case No. :  
3 : 13 - cv - 02274 - MMC

9 BMW OF NORTH AMERICA, LLC, a  
10 Delaware Limited Liability Company,

11 Defendants.

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14 VIDEOTAPED DEPOSITION OF JOHNNY THOMAS

15 Thursday, November 19, 2015

16 10:17 a.m.

17

18 401 Watt Avenue

19 Sacramento, California

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REPORTED BY:

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Kimberly A. Barrette

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CSR No. 6671

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Also present:

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Andy Lo, Videographer

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Darren Dickman, Kershaw Cook & Talley

1 regard to ESI related to above topics, correct?

2 MR. CARR: That's not correct. He's here --  
3 he can talk about anything that we've produced, any  
4 technical question you have about that stuff.

5 In terms of -- you know, that would be a  
6 person who could discuss how, you know, BMW's warranty  
7 operations are structured or how the customer relations  
8 department uses their database. He's not that person.

9 He can answer any technical questions you have  
10 about a complaint made to customer service for -- in the  
11 warranty or good will stuff we produced.

12 MR. STARR: Well, in Eric's e-mail, he said in  
13 follow-up to our meet and confer call and per Plaintiff's  
14 revised proposed list of categories, BMW NA agrees to  
15 produce additional PMKs on the following topics and one  
16 of them he just says ESI.

17 MR. CARR: Yeah, that's -- yes, he will be  
18 that, but it's not this witness.

19 MR. STARR: I understand. Okay. Fair enough.

20 BY MR. STARR: Q. What have you done in order  
21 to familiarize yourself with regard to the topics that  
22 you're going to testify to today?

23 A. I did a lot of technical research concerning  
24 the control modules in the vehicles that are listed,  
25 researched the location of those control modules, the bus

1 structures of those control modules, refamiliarized  
2 myself with the bus structure, with the different wiring  
3 diagrams, component locations.

4 Reviewed some -- spoke with a lot of product  
5 engineers with BMW concerning the allegations that are  
6 made.

7 Q. Hang on. Sorry.

8 A. And reviewed some documents that counsel has  
9 provided concerning those claims that you were  
10 mentioning.

11 MR. CARR: For the record, those are the  
12 documents produced in this matter.

13 BY MR. STARR: Q. Okay. As a result of doing  
14 things you've just described, have you become aware of  
15 information that you didn't have previously during your  
16 prior deposition?

17 A. No. There's some things that I was unsure of  
18 like component locations that I suspected -- I didn't  
19 know if they were either in location A or location B, so  
20 some of those things have become more clear. But  
21 overall, anything new, no.

22 Q. So basically the same information you had when  
23 you sat for that deposition is the same as the  
24 information you have now, correct?

25 A. Yes, sir.

1 A. No, sir.

2 Q. Is there any type of resource that BMW has in  
3 order to, you know, internally look at the different  
4 configurations so that you -- like would you have been  
5 able to do that if you wanted to?

6 A. Yes, sir.

7 Q. And where would that information be  
8 maintained?

9 A. We use our diagnostic equipment that -- it's  
10 called ISTA. It's the same resource that dealers have to  
11 repair the vehicles.

12 Q. How long did the conversation you have with  
13 Tom take?

14 A. Three hours. Three and a half hours.

15 Q. And during that conversation you didn't take  
16 any notes at all?

17 A. No, sir.

18 Q. Why not?

19 A. Because I remembered.

20 Q. Do you still remember it?

21 A. Right now. So make it quick before it goes  
22 away.

23 Q. Is the information that Tom gave you, does it  
24 go beyond the information that's contained in ISTA?

25 A. No, sir.

1 Q. So the same information that Tom gave you is  
2 available through ISTA, correct?

3 A. Through ISTA, correct.

4 Q. And if you wanted to access ISTA and print  
5 that information out, you'd be able to do that, correct?

6 A. Correct. And I would like to add one thing.  
7 We use our parts catalog as well.

8 Q. You used it with Tom?

9 A. Yes, sir. We viewed it.

10 Q. And did you have that parts catalog in front  
11 of you when you spoke to Tom?

12 A. Yes, sir.

13 Q. But you didn't make any notes, correct?

14 A. No, sir. That's correct.

15 Q. Okay.

16 A. And I just remembered something else. Our  
17 training manuals. We used ISTA. We used our parts  
18 catalog and BMW training manuals.

19 Q. And ISTA contains the different configurations  
20 for each of the class vehicles, correct?

21 A. When you say configurations, what do you mean?

22 MR. CARR: Right. Object to form.

23 BY MR. STARR: Q. Well, the configurations of  
24 electronic control modules that are in the luggage area  
25 of the class vehicles?

1 A. They can, yes.

2 Q. What do you mean by they can?

3 A. Well, it's just -- you know, you'll have --

4 you'll have a diagram that's associated to a car,

5 specific car.

6 Q. Right.

7 A. And the diagram should be linked depending on

8 what car that you selected.

9 So hopefully the document is assigned to the

10 right car, you know, because it's just a big database and

11 all the links are connected by imperfect humans who make

12 mistakes.

13 Q. Sure.

14 A. So that's why I say it can.

15 Q. And if a person were to want to access ISTA

16 and, say, I want to see the diagram for the different

17 configurations of, for example, like a 2002 X5, you could

18 access ISTA and print that out on a piece of paper,

19 correct?

20 A. If you gave me specific information on the

21 vehicle or the VIN and you tell me what system you wanted

22 to look up, I could look that up.

23 So if we wanted to find out where is the

24 powers and the grounds going to a particular control

25 module or sensor, you have access to that.

1 STATE OF CALIFORNIA )  
2 )  
2 COUNTY OF SACRAMENTO )

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4 I, Kimberly A. Barrette, a Certified Shorthand  
5 Reporter, do hereby certify:

6 That prior to being examined, the witness in  
7 the foregoing proceedings was by me duly sworn to testify  
8 to the truth, the whole truth, and nothing but the truth;

9 That said proceedings were taken before me at  
10 the time and place therein set forth and were taken down  
11 by me in shorthand and thereafter transcribed into  
12 typewriting under my direction and supervision;

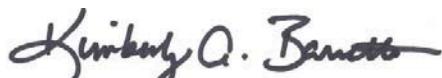
13 I further certify that I am neither counsel  
14 for, nor related to, any party to said proceedings, nor  
15 in any way interested in the outcome thereof.

16 In witness whereof, I have hereunto subscribed  
17 my name.

18

19 Dated: December 4, 2015

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Kimberly A. Barrette  
CSR No. 6671

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